

FLICKER, GARELICK & ASSOCIATES, LLP
 45 Broadway
 New York, New York 10006
 (212) 319-5240
 Attorneys for Respondents

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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	:	
PATRICIA IRBY (on behalf of the minor	:	
children of STEPHEN S. HELVENSTON,	:	
deceased), JUNE BATALONA (widow of WESLEY	:	
BATALONA),	:	
	:	
Petitioners,	:	Case No.
	:	07-cv-5939
v.	:	
	:	ECF Case
BLACKWATER SECURITY CONSULTING, LLC,	:	
FIDELITY & CASUALTY COMPANY OF NEW	:	
YORK/CNA INTERNATIONAL, and DIRECTOR,	:	
OFFICE OF WORKERS' COMPENSATION PROGRAMS,	:	
UNITED STATES DEPARTMENT OF LABOR,	:	
	:	
Respondents.	:	
	:	
-----X	:	

ANSWER TO PETITION FOR REVIEW

Defendants/Respondents Blackwater Security Consulting, LLC and Fidelity & Casualty Company of New York/CNA International, by and through their attorneys, Flicker, Garelick & Associates, LLP, as and for their Answer to the Petition for Review of Petitioners Patricia Irby and June Batalona, respond to the allegations set forth in the Petition for Review as follows:

1. Admit the allegations set forth in Paragraph 1 of the Petition for Review.

2. Admit the allegations set forth in Paragraph 2 of the Petition for Review.

3. Admit the allegations set forth in Paragraph 3 of the Petition for Review.

4. Admit the allegations set forth in Paragraph 4 of the Petition for Review.

5. Admit the allegations set forth in Paragraph 5 of the Petition for Review.

6. Deny the allegations set forth in Paragraph 6 of the Petition for Review.

7. Admit the allegations set forth in Paragraph 7 of the Petition for Review.

8. Admit the allegations set forth in Paragraph 8 of the Petition for Review.

9. Deny the allegations set forth in Paragraph 9 of the Petition for Review.

10. Deny the allegations set forth in Paragraph 10 of the Petition for Review except admit that a civil lawsuit was filed in North Carolina state court.

11. Deny the allegations set forth in Paragraph 11 of the Petition for Review.

12. Deny the allegations set forth in Paragraph 12 of the Petition for Review.

13. Deny the allegations set forth in Paragraph 13 of the Petition for Review.

14. Deny the allegations set forth in Paragraph 14 of the Petition for Review.

15. Deny the allegations set forth in Paragraph 15 of the Petition for Review except admit that Respondent Blackwater Security Consulting, LLC filed a Confession of Judgment.

16. Deny the allegations set forth in Paragraph 16 of the

Petition for Review except admit that Respondent Blackwater Security Consulting, LLC filed a Motion for Summary Decision and refer to that document for its terms.

17. Deny the allegations set forth in Paragraph 17 of the Petition for Review except admit that Petitioners filed motions to withdraw their claims for benefits and Respondent Blackwater Security Consulting, LLC opposed those motions.

18. Deny the allegations set forth in Paragraph 18 of the Petition for Review except admit that Administrative Law Judge William R. Dorsey denied Petitioner Patricia Irby's motion to withdraw on April 21, 2006.

19. Admit the allegations set forth in Paragraph 19 of the Petition for Review.

20. Admit the allegations set forth in Paragraph 20 of the Petition for Review.

21. Deny the allegations set forth in Paragraph 21 of the Petition for Review except admit that Respondents Blackwater Security Consulting, LLC and Fidelity & Casualty Company of New York/CNA International filed a Petition for Review of the decision of the Benefits Review Board with the Second Circuit Court of

Appeals.

22. Deny the allegations set forth in Paragraph 22 of the Petition for Review except admit that Respondents Blackwater Security Consulting, LLC and Fidelity & Casualty Company of New York/CNA International filed a Petition for Review of the decision of the Benefits Review Board with the United States District Court for the Southern District of New York and such matter has been assigned Case Number 07-cv-5565.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23 of the Petition for Review.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 of the Petition for Review.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 of the Petition for Review.

AFFIRMATIVE DEFENSE

The Petition for Review is barred as this Court lacks appellate jurisdiction over this matter.

WHEREFORE, Respondents Blackwater Security Consulting, LLC and Fidelity & Casualty Company of New York/CNA International respectfully request judgment as set forth in the Complaint/Petition for Review in Case Number 07-cv-5565.

Dated: New York, New York
July 23, 2007

FLICKER, GARELICK & ASSOCIATES, LLP
Attorneys for Respondents Blackwater
Security Consulting, LLC and Fidelity
& Casualty Company of New York/CNA
International

By:



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FIDELITY & CASUALTY COMPANY OF NEW
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OFFICE OF WORKERS' COMPENSATION PROGRAMS,
UNITED STATES DEPARTMENT OF LABOR,
:
:
Respondents. :
:
-----X

PROOF OF SERVICE

Keith L. Flicker, Esq., of full age, upon his oath, under penalty of perjury states that:

1. I am an Attorney at Law of the State of New York admitted to practice before the United States District Court for the Southern District of New York and am a Partner of the law firm of Flicker, Garelick & Associates, LLP, attorneys for Respondents

Blackwater Security Consulting, LLC and Fidelity & Casualty Company
of New York/CNA International.

2. On July 23, 2007, I served copies of the foregoing
Answer to Petition for Review by way of first class mail upon:

Attorneys for Petitioners
Patricia Irby and June Batalona:

Marc P. Miles, Esq.
Callahan & Blaine, APLC
3 Hutton Centre Drive - Suite 900
Santa Ana, California 92707

Attorneys for Respondent Director,
Office of Workers' Compensation Programs,
United States Department of Labor:

Matthew Boyle, Esq.
United States Department of Labor
Office of the Solicitor
200 Constitution Ave., N.W.
Suite N-2117
Washington, D.C. 20210

Dated: New York, New York
July 23, 2007



Keith L. Flicker (KF-6447)